

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

COMFORT RESEARCH, LLC,

Plaintiff,

v.

COMFY SACKS LLC,

Defendant.

Case No:

Judge:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, COMFORT RESEARCH, LLC ("PLAINTIFF" or "COMFORT RESEARCH"), by and through its undersigned counsel, for its Complaint against Defendant, COMFY SACKS LLC, ("DEFENDANT" or "COMFY SACKS") states the following. Allegations made on information and belief are premised on the belief that the same are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

NATURE OF THE CASE

1. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. §1, *et seq.* ("Federal Patent Act").

2. DEFENDANT, in an improper attempt to unlawfully profit from the product development, innovation, and long-term success of COMFORT RESEARCH's furniture products, advertises, distributes, and sells a plurality of knockoff furniture products in direct violation of The Federal Patent Act.

3. COMFORT RESEARCH seeks injunctive and monetary relief to the fullest extent possible under The Federal Patent Act, as well as any such other relief as the equities of the case may require and as this Court may deem just and proper.

PARTIES

4. COMFORT RESEARCH, LLC is a Michigan limited liability company having a principal place of business at 1719 Elizabeth Avenue NW, Grand Rapids, Michigan 49504.

5. Upon information and belief COMFY SACKS LLC is a corporation organized under the laws of Missouri, having a principal place of business at 935 Gardenview Office Parkway, St. Louis, Missouri 63141.

JURISDICTION AND VENUE

6. This Court has original jurisdiction over the subject matter by virtue of at least one of 28 U.S.C. §§1331, 1338(a), and 1338(b).

7. This Court has supplemental jurisdiction over any state law and common law claims under 28 U.S.C. §1367(a).

8. Upon information and belief this Court has personal jurisdiction over DEFENDANT, and venue is proper in this judicial district pursuant to at least one of 28 U.S.C. §§1391(b)(2), 1391(c), 1400(a), and 1400(b). DEFENDANT is actively doing business in this judicial district, and/or has committed certain acts of patent infringement in this judicial district. Upon information and belief DEFENDANT makes, distributes, offers for sale, and/or sells a plurality of

furniture products in the State of Michigan. DEFENDANT also sells one or more of the products-in-suit to Michigan consumers via one or more commercially active websites. Upon information and belief DEFENDANT is subject to the personal jurisdiction of this Court and is amenable to service of process pursuant to the Michigan long-arm statute, MI ST 600.705 (2003), and Fed. R. Civ. P. 4(e). Requiring DEFENDANT to respond to this action will not violate due process.

BACKGROUND

9. COMFORT RESEARCH is, among other things, a long-standing leader in the innovation, design, and manufacture of furniture products. COMFORT RESEARCH manufactures, distributes, and sells its beanbags, chairs, loungers, loveseats, ottomans, pet beds, and poolside products to companies and end users throughout the United States.

10. COMFORT RESEARCH is actively philanthropic both locally and nationally – donating thousands of chairs, as well as proceeds from the sales of chairs, to organizations such as Bethany Christian Services, Boys and Girls Club of Holland, Boys and Girls Club of Grand Rapids, Children's Advocacy Center, Gilda's Club of Grand Rapids, Grand Rapids Public and Private Schools, Northwest Arkansas Children's Shelter, The Wounded Warrior Project, and Sunshine on a Rainy Day – just to name a few.

11. COMFORT RESEARCH is a generally non-litigious company and it welcomes fair competition in the marketplace. In fact, COMFORT RESEARCH

believes that fair competition is healthy for customers and it also enables COMFORT RESEARCH to even better serve its customers.

12. While COMFORT RESEARCH invites fair competition in the marketplace, DEFENDANT, in an improper attempt to unlawfully profit from the product development, innovation, and goodwill of COMFORT RESEARCH, as well as impede the benevolent missions of COMFORT RESEARCH, has begun an unfairly competitive sales and marketing campaign. In particular, DEFENDANT sells a plurality of knockoff furniture products that are protected by United States Patents owned by COMFORT RESEARCH.

13. COMFORT RESEARCH now seeks the intervention of this Court, to restore fair competition in the marketplace.

COUNT I – PATENT INFRINGEMENT (US PATENT NO. 6,279,184)

14. COMFORT RESEARCH repeats and realleges the allegations contained in Paragraphs 1-13 of this Complaint as if fully set forth herein.

15. Prior to August 11, 1999, Daniel C. George II conceived of a novel frameless chair.

16. On August 11, 1999, Daniel C. George II filed a patent application directed to the novel frameless chair.

17. On August 28, 2001, the United States Patent and Trademark Office issued U.S. Patent No. 6,279,184 ("the '184 patent"), entitled "Frameless Chair." (Exhibit A).

18. All rights in the '184 patent have been assigned to COMFORT

RESEARCH. COMFORT RESEARCH is the sole owner of the '184 patent and has the right to enforce and recover damages for infringement of the '184 patent.

19. DEFENDANT makes or has made, uses, offers to sell and/or sells one or more frameless chairs (*e.g.*, kid sack, 3 ft sack, 4 ft sack, 5 ft sack, 6 ft sack, 7 ft sack, 8 ft sack, 5 ft lounger, 6 ft lounger, 7.5 ft lounger, and kids lounger) which infringe upon one or more claims of the '184 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

20. Infringement of the '184 patent by DEFENDANT has caused, and will continue to cause, COMFORT RESEARCH to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and/or price erosion in an amount to be determined by the trier of fact.

21. Unless restrained and enjoined by this Court, DEFENDANT will continue to infringe the '184 patent, resulting in substantial, continuing and irreparable damages to COMFORT RESEARCH.

22. The actions of DEFENDANT are "exceptional" within the meaning of 35 U.S.C. §285.

COUNT I – PATENT INFRINGEMENT (US PATENT NO. 6,725,482)

23. COMFORT RESEARCH repeats and realleges the allegations contained in Paragraphs 1-22 of this Complaint as if fully set forth herein.

24. Prior to August 11, 1999, Daniel C. George II conceived of a novel frameless chair.

25. On August 28, 2001, Daniel C. George II filed a patent application

directed to the novel frameless chair.

26. On April 27, 2004, the United States Patent and Trademark Office issued U.S. Patent No. 6,725,482 ("the '482 patent"), entitled "Frameless Chair." (Exhibit B).

27. All rights in the '482 patent have been assigned to COMFORT RESEARCH. COMFORT RESEARCH is the sole owner of the '482 patent and has the right to enforce and recover damages for infringement of the '482 patent.

28. DEFENDANT makes or has made, uses, offers to sell and/or sells one or more frameless chairs (*e.g.*, kid sack, 3 ft sack, 4 ft sack, 5 ft sack, 6 ft sack, 7 ft sack, 8 ft sack, 5 ft lounger, 6 ft lounger, 7.5 ft lounger, and kids lounger) which infringe upon one or more claims of the '482 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

29. Infringement of the '482 patent by DEFENDANT has caused, and will continue to cause, COMFORT RESEARCH to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and/or price erosion in an amount to be determined by the trier of fact.

30. Unless restrained and enjoined by this Court, DEFENDANT will continue to infringe the '482 patent, resulting in substantial, continuing and irreparable damages to COMFORT RESEARCH.

31. The actions of DEFENDANT are "exceptional" within the meaning of 35 U.S.C. §285.

PRAYER FOR RELIEF

WHEREFORE, COMFORT RESEARCH respectfully demands judgment against DEFENDANT as follows:

A. Declaring that DEFENDANT has infringed the '184 and the '482 patents;

B. Pursuant to 35 U.S.C. §283, permanently enjoining and restraining DEFENDANT and their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from further acts of infringement of the '184 and the '482 patents;

C. Pursuant to 35 U.S.C. §284, awarding to COMFORT RESEARCH damages, including lost profits, together with prejudgment interest, post judgment interest, and costs, adequate to compensate COMFORT RESEARCH for DEFENDANT's acts of infringement of the '184 and the '482 patents;

D. Declaring that DEFENDANT's infringement has been willful and that this is an exceptional case pursuant to 35 U.S.C. §285 and awarding COMFORT RESEARCH treble damages and reasonable attorneys' fees against DEFENDANT for infringement of the '184 and the '482 patents;

E. Order the impoundment and destruction of all infringing works;

F. Declaring that DEFENDANT has infringed at least one of the patents of COMFORT RESEARCH;

G. Preliminarily and permanently restrain and enjoin DEFENDANT from further infringement of COMFORT RESEARCH's patents;

H. Order DEFENDANT to pay damages adequate to compensate COMFORT RESEARCH for the acts of patent infringement by DEFENDANT and DEFENDANT'S profits from its sales of goods in violation of the law as described in this Complaint;

I. Order DEFENDANT to pay all applicable statutory damages including exceptional and/or treble damages;

J. Order DEFENDANT to pay COMFORT RESEARCH's expenses, interest, and costs including reasonable attorney's fees;

K. Order DEFENDANT to pay COMFORT RESEARCH for rehabilitative advertising and price point restoration; and

L. Awarding COMFORT RESEARCH such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

COMFORT RESEARCH respectfully demands a trial by jury on all issues so triable.

Respectfully submitted,

COMFORT RESEARCH, LLC,

Dated: November 24, 2015

/s/ William L. King III
William L. King III
KING & PARTNERS, PLC
170 College Avenue, Suite 230
Holland, Michigan 49423
T (616) 355-0400
F (616) 355-9862
wking@king-partners.com

Jonathan A. Harris
AXINN, VELTROP &
HARKRIDER LLP
90 State House Square
Hartford, Connecticut 06103
T (860) 275-8100
F (860) 275-8101
jah@avhlaw.com

Attorneys for Plaintiff